IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

OP.No. 7206 of 2003(G)

PETITIONER:

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1. **E.SUBAIR KUNJU,**
   ANCY COTTAGE, PACHIRA, PALLIPPURAM,
   PALLIPPURAM P.O., THIRUVANANTHAPURAM.

2. **ABDUL RABBU P.,**
   AZEEM MANZIL ALUMMOODU, KANIYAPURAM P.O.,
   THIRUVANANTHAPURAM.

3. **SUBAIDA BEEVI,**
   APPACHI VILAKOM, THEKEVILA MURI, ALUMMOODU,
   KANIYAPURAM, THIRUVANANTHAPURAM.

4. **SULFATH BEEGUM,**
   AZEEM MANZIL, ALUMMOODU, KANIYAPURAM P.O.,
   THIRUVANANTHAPURAM.

5. **MUHAMMED HANEEFA A.,**
   PLAVERA VEEDU, PALIPPURAM P.O.,
   THIRUVANANTHAPURAM.

6. **RAJELA BEEVI,**
   PLAVERA VEEDU, PALLIPPURAM P.O.,
   THIRUVANANTHAPURAM.

7. **SALAVUDDIN M.,**
   KADAVILAKATHU VEEDU, ANDOORKONAM,
   ANDORKONAM P.O., THIRUVANANTHAPURAM.

8. **ABDUL JABBAR M.,**
   THOTAHIKEZHE VEEDU, PACHIRA, PALLIPPURAM P.O.,
   THIRUVANANTHAPURAM.

9. **RAJ MON C.,**
   RAJ BHAVAN, NEAR L.P.B.S., PALLIPPURAM,
   PALLIPPURAM P.O., THIRUVANANTHAPURAM.

10. **KRISHNAN KUTTY A.,**
    PADIPPURAYIL VEEDU, NEAR RAILWAY STATION,
    KANIYAPURAM, THIRUVANANTHAPURAM.

11. ABDUL SALAM S.,
MANAKKATTU VILAKOM, THEKKEVILA MURI, ALUMMOODU,
KANIYAPURAM P.O., THIRUVANANTHAPURAM.

12. MUHAMMED RASHEED A.,
PACHIRA PURAYIDOM, PALLICHA VEETTU MURI,
PACHIRA, PALLIPPURAM P.O., THIRUVANANTHAPURAM.

13. ESMAIL PILLAI,
PUMUGHATHU VEEDU, ALUMMOODU, KANIYAPURAM P.O.,
THIRUVANANTHAPURAM.

14. A.SAINAM BEEVI,
MUKIL VEEDU, KANIYAPURAM JUNCTION,
KANIYAPURAM P.O., THIRUVANANTHAPURAM.

15. JANISA BEEVI K.,
KOCHUKUMILI, VALIYAVEETTUMURI,NEAR KUMILI MOSQUE,
PALLIPPURAM P.O., THIRUVANANTHAPURAM.

16. RAHUMA BEEVI A.,
PILLAVEETTIL VEEDU, HOUSE NO.7/110, PACHIRA,
PALLIPPURAM, THIRUVANANTHAPURAM.

17. S.JUMAILA BEEVI,
P.S.A.P. BUNGLOW, KALLOOR MURI,
MELTHONNAKKAL PAKUTHI, MANJAMALA P.O.,
KUDAVOOR (VIA), THIRUVANANTHAPURAM.

18. ABDUL RASHEED,
JAFFAR MANZIL, NEAR TRANSPORT BUS STATION,
KANIYAPURAM P.O., THIRUVANANTHAPURAM.

19. ABDUL AZEEZ,
PALLIVILAKATHU VEEDU, KANIYAPURAM,
THIRUVANANTHAPURAM.

20. SMT.PATHUMMA KUNJU,
RAILWAY BUNGLOW, NEAR RAILWAY STATION,
KANIYAPURAM, THIRUVANANTHAPURAM.

21. SHERIFA BEEVI,
PARAMBILTHOPPU VEEDU, PALLICHA VEETTU MURI,
PALLIPPURAM P.O., THIRUVANANTHAPURAM.

22. ABDUL KHARIM,
THEKKEVILA MURI, PALLIPPURAM VILLAGE,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER,
THAHIRA BEEVI, E.A.KARIM MANZIL, PALLIPPURAM,
THIRUVANANTHAPURAM.

23. LETTICIA K.J.,
PALLICHA VEETTU MURI, MANJULAS, PARAMPIPALAM,
PALLIPPURAM P.O., THIRUVANANTHAPURAM.

24. SARITHA SUDHAKAR,
PALLICHA VEETTUMURI, MANJULAS, PARAMPIPALAM,
PALLIPPURAM P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.P.GOPALAKRISHNAN NAIR

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR,
THIRUVANANTHAPURAM.

3. SPECIAL TAHSILDAR,
LAND ACQUISITION (GENERAL), THIRUVANANTHAPURAM.

4. DEPUTY TAHSILDAR,
LAND ACQUISITION (GENERAL), THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADERSMT.K.R.DEEPA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH, J.

O.P.No.7206 of 2003

Dated 13th December, 2006.

J U D G M E N T

The writ petition is filed mainly with the following prayer :-

> "Issue a writ of certiorari or other appropriate writ direction or order quashing Exts.P5(a) to P5(s) and directing the respondents to refer the applications Exts.P4 to P4(x) under Section 18(2)(b) of the Kerala Land Acquisition Act to the Sub Court, Thiruvananthapuram for the determination of the market value of the property in the land acquisition case mentioned therein."

The main contention of the petitioners is that they were under the impression that the acquisition proceedings had already been dropped, and hence the applications submitted by them for reference should be treated to have been filed in time. Learned Government Pleader, referring to the counter affidavit submits that except the petitioners, all others in the locality had taken timely action and the contention that the proceedings had been dropped is factually incorrect. It is also submitted that the petitioners 7 and 8 had not filed any application for reference even belatedly. It is seen from the counter affidavit that the award was passed on 15.10.2001, with due notice to the parties. It is also seen that Section 12(2) notice had been served on the parties, immediately after passing the award. There is no reply

affidavit. Thus it is fairly clear from the averments in the counter affidavit that the petitioners had not taken action for reference within the permitted period of six weeks and hence their case cannot be directed to be referred under Section 18 of the Land Acquisition Act to the Sub Court. The writ petition is hence dismissed making it clear that the judgment shall not stand in the way of the petitioners taking steps under Section 28A of the Land Acquisition Act.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

O.P.No.7206 of 2003 (G)

J U D G M E N T

Dated 13th December, 2006.